

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

GARY DEWAYNE HARTON)	
)	CASE NO. CR01-J-0061-W
vs.)	(§ 2255 Case No. CV02-J-8060-W)
)	
UNITED STATES OF AMERICA)	

ORDER

On October 12, 2004, the magistrate judge's report and recommendation was entered and the parties were allowed therein fifteen (15) days in which to file objections to the recommendations made by the magistrate judge. To date, neither petitioner nor respondent have filed objections

After careful consideration of the record in this case and the magistrate judge's report and recommendation and petitioner's objections thereto, the court hereby ADOPTS the report of the magistrate judge. The court further ACCEPTS the recommendations of the magistrate judge and it is therefore

ORDERED, ADJUDGED and DECREED that the Motion to Vacate, Set Aside or Correct Sentence, filed pursuant to 28 U.S.C. § 2255, is due to be and is hereby DENIED as to Claims 1, 2, 3, 4, 5, 6, and 8. It is further ORDERED, ADJUDGED and DECREED that the Motion to Suppress Fourth Amendment Violation [Doc. #100] is due to be and hereby is DENIED. It is further ORDERED, ADJUDGED and DECREED that this matter is REFERRED to the magistrate judge to conduct an evidentiary hearing on Claim 7, after which he shall enter a report and

recommendation containing proposed findings of fact and conclusions of law on that claim.

DONE this 20th day of December, 2004.



INGE PRYTZ JOHNSON
U.S. DISTRICT JUDGE

UNITED STATES GOVERNMENT

MEMORANDUM

TO: The Honorable Inge P. Johnson
United States District Judge

FROM: Harwell G. Davis, III
United States Magistrate Judge

RE: *United States of America v. Gary Dewayne Harton*
Case No. CR01-J-0061-W (§ 2255 Case No. CV02-J-8060-W)

DATE: December 16, 2004

In accordance with my report and recommendation, I have prepared for your consideration the attached order denying in part petitioner's Motion to Vacate, Set Aside or Correct Sentence filed pursuant to 28 U.S.C. § 2255, denying his Motion to Suppress Fourth Amendment Violation, and referring the § 2255 motion to me to conduct an evidentiary hearing on one claim.

Please let me know if I can be of any further assistance in this matter.